

VZCZCXRO4413

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DE RUEHVB #0426/01 1611153  
ZNR UUUUU ZZH  
P 091153Z JUN 08  
FM AMEMBASSY ZAGREB  
TO RUEHC/SECSTATE WASHDC PRIORITY 8377  
INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE

UNCLAS SECTION 01 OF 02 ZAGREB 000426

DEPT FOR EUR/SCE HOH AND BALIAN  
DEPT FOR S/WCI WILLIAMSON  
DEPT FOR INR/MORIN  
NSC FOR BRAUN

SIPDIS  
SENSITIVE

E.O. 12958: N/A

TAGS: [KAWC](#) [ICTY](#) [PREL](#) [PGOV](#) [HR](#)

SUBJECT: VISIT OF S/WCI WILLIAMSON TO ZAGREB

REF: (A) ZAGREB 385; (B) ZAGREB 410

11. (U) SUMMARY: Ambassador-at-large for War Crimes Clint Williamson visited Zagreb on June 2. He met with Assistant Justice Minister Markotic to discuss the status of Croatian cooperation with the ICTY. Markotic defended Croatia against recent claims by the ICTY prosecutor that the GoC is only "partially" cooperating with the ICTY on providing documents. A subsequent meeting with Assistant Foreign Minister Pjer Simunovic covered remaining issues before the UNSC related to the ICTY close-out plan and efforts at the UN to promote cooperation by other countries on war crime prevention and with international tribunals, with Simunovic indicating the GoC's priorities are in line with U.S. goals on both issues. Opposition MP and legal expert Ivo Josipovic was less sanguine about Croatia's judicial capacity or the media's ability to cover such cases, but agreed that the GoC was genuine in its cooperation with the ICTY. A final session with Deputy Prime Minister Jadranka Kosor covered both sets of topics, confirming high-level political support for the points made earlier by Markotic and Simunovic. END SUMMARY.

#### ICTY COOPERATION

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12. (U) Gordan Markotic, Assistant Minister of Justice for Cooperation with International Courts, told Amb. Williamson that Croatia remained committed to full cooperation with the ICTY, and expressed dissatisfaction with ICTY Prosecutor Serge Brammertz's recent evaluation that Croatia was only "partially cooperative" with the ICTY. (REF A) Under Brammertz's predecessor, Carla del Ponte, Markotic noted, Croatia had been assessed as "generally cooperative" for several years.

13. (U) At issue is the GOC's willingness to obtain a specific set of documents relating to the Gotovina trial. Markotic explained that the level of cooperation has not changed, but rather the ICTY's perception of the GOC's ability to obtain these documents. We have done everything within our power to find them, Markotic explained, noting that PM Sanader had ordered the Ministry of Defense (MOD) to open its archives, that the MOD was conducting an internal investigation to find those documents, and that the GOC had continually proven its willingness to cooperate. To emphasize his last point, he noted that the GOC has fulfilled 787 out of the ICTY's 788 requests for information, the exception being these documents. The documents in question were reprinted in a book about General Janko Bobetko and relate to artillery use during Operation Storm. Markotic estimated that they are neither critical to the defense nor the prosecution. He told Williamson that his office is surprised by the downgraded evaluation, noting that Croatia advised the ICTY over a year ago that they could not find the documents and that nothing has changed since then. He said that they were perplexed as to how to resolve the issue when they in good faith cannot locate the documents.

UN ISSUES

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14. (SBU) With Assistant FM Simunovic, Amb. Williamson reviewed three key issues under review in the UNSC Working Group on the legacy of the international tribunals. These are the final location of the tribunal archives, how to address any indictees that may still be fugitives when the tribunal concludes its work, and encouraging effected governments to professionally handle their responsibilities to try war crimes. On the archives, Williamson said the USG was still awaiting the report of Justice Goldstone on the issue and that the outcomes may differ regarding the ICTR and the ICTY, but that in the latter case, we were leaning toward a "neutral" venue. Simunovic commented that the GoC was clearly in favor of a neutral venue.

15. (SBU) On prosecution of fugitives, Williamson noted that the USG favored ensuring there was some residual capacity to at least try Mladic and Karadzic internationally, perhaps with an ad hoc panel drawn from former ICTY justices. For the remaining two fugitives, Zupljanin and Hadzic, prosecution in the region might be acceptable, but in that case we would prefer that the cases be tried in the countries where the alleged crimes were committed, meaning Croatia for Hadzic and B-H for Zupljanin. Simunovic responded that Croatia could understand the need for an international tribunal for at least Karadzic and Mladic, but if domestic prosecution was needed then the Croatian courts had shown they had the capacity, as demonstrated by the recently concluded Ademi-Norac trial (REF B). He added that, in the context of the work of the OSCE office in Croatia, the government supported the development of capacity in domestic civil society to monitor war crimes trials. He said he believed both domestic NGOs and the media had made great progress toward effective monitoring of such proceedings.

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16. (SBU) Regarding local governments' responsibilities to try war crimes, Amb. Williamson praised the efforts by the Croatian State Prosecutor to streamline cases, eliminate outstanding poorly documented indictments, reduce duplication, and promote evidence sharing and other forms of cooperation among regional prosecutors. He noted that the USG was working to promote several of these steps as a model to other prosecutors. We also needed to ensure that the prosecutors' practical experience in implementing these steps was reflected in governments' deliberations at the UN on handling such issues. Simunovic reaffirmed that Croatia was clear on its role vis-a-vis the ICTY, and was determined to continue cooperation, "not just to serve as a model to others, but because it is the best thing for our own interests." Simunovic added that Croatia also felt strongly that conditionality regarding war crimes cooperation needs to be upheld, and that it would urge continued conditionality for Serbia as well, particularly in the EU context.

17. (U) In response to Amb. Williamson's plug for greater Croatian engagement in war crimes prevention and response efforts such as the Global Futures Forum or the Justice Rapid Response Project, Simunovic indicated the GoC would be interested in exploring ways that it might share its expertise on war crimes investigations and related issues with others. In the context of the UNSC, Simunovic noted that Croatia wanted to be among the key actors pushing for international justice in Darfur, Lebanon and elsewhere, so these projects would be consistent with Croatia's broader policies.

#### AN OPPOSITION PERSPECTIVE

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18. (U) Over lunch, opposition Member of Parliament and law professor Ivo Josipovic was less upbeat about the capabilities of the Croatian judicial system than either Assistant Minister had been. Josipovic agreed that the Ademi-Norac trial had been well-handled, but he said other trials had not gone as well, and that the State Prosecutor's Office remained heavily influenced, or at least constrained, by the government. He acknowledged a significant quantity of media reporting on war crimes trials, but felt it was of poor quality, although he said that domestic NGOs monitoring the trials were doing good quality work.

¶9. (U) In a meeting with Deputy Prime Minister Jadranka Kosor, Amb. Williamson stressed the progress that Croatia had made in resolving issues with the ICTY. He noted the downgraded assessment being offered by the Prosecutor, though, and urged the government to work with the Tribunal to address this matter. More broadly, Williamson acknowledged that Croatia had made tremendous progress in the years since the war, reflected by Croatia's path toward NATO and the EU and the country's membership in the UN Security Council. He said that this evolution could serve as a positive model for other countries emerging from conflict or ethnic hostilities. He urged Croatia to get more involved in ongoing genocide/war crimes prevention initiatives such as the Global Futures Forum and Justice Rapid Response, suggesting that Croatia's experience recovering from the 1990's conflict would add value to these processes. Kosor indicated that she would be supportive of this, but she avoided specific discussion of what Croatia might be able to do.

¶10. (U) Ambassador Williamson has cleared this cable.

BRADTKE